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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-195941

DATE: October 18, 1979

MATTER OF: Commander David C. Honhart, USN

- DIGEST:
1. Where dependents of a member of a uniformed service move from an overseas duty station without orders and upon a subsequent permanent change of station the member is transferred to a permanent station where he is assigned Government quarters, he is not entitled to a dislocation allowance pursuant to 37 U.S.C. 407 (1976).
 2. Where dependents of a member of a uniformed service move from an overseas duty station without orders and without authorization from the Secretary concerned, a claim for reimbursement by the member for the dependents' transportation costs on a subsequent permanent change of station of the member must be denied.
 3. Where a member of a uniformed service stationed overseas incurs expenses for housing in excess of the amount authorized to be paid to him for BAQ and overseas station allowances, his claim for extraordinary expenses to cover the additional cost must be denied. No authority exists for payment of extraordinary expenses and a member may only be paid allowances for housing and living expenses authorized by law and regulations.

Three issues are presented in this appeal from a settlement of our Claims Division. They are 1) whether a member of the uniformed services may be paid a dislocation allowance where his dependents move from an overseas duty station without orders and upon a subsequent permanent change of station (PCS) the member is transferred to a permanent station where he is assigned Government quarters, 2) whether a member of the uniformed services may be reimbursed for the transportation expenses of his dependents who moved from an overseas duty station without orders and without authorization from the Secretary concerned and the member is

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[CLAIM for Dislocation ALLOWANCE]

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subsequently transferred on a PCS where his dependents join him at his new permanent duty station; and 3) whether a member of the uniformed services stationed overseas may be reimbursed for extraordinary expenses to cover housing costs in excess of the amount authorized to be paid to him for basic allowance for quarters (BAQ) and overseas station housing allowances.

The answer to all three questions is no.

Commander David C. Honhart, USN, was assigned duty with the Royal Danish Navy in July 1977. His duty station was Copenhagen, Denmark, where he was accompanied by his wife and two sons. Since Government quarters were not available, Commander Honhart and his dependents lived in a private, rented apartment. On April 5, 1978, Commander Honhart's wife departed Denmark with the two sons at personal expense, without the prior knowledge or consent of her husband and without Navy orders authorizing their travel at Government expense. When efforts to get his wife to return failed, Commander Honhart requested a transfer back to the United States. Commander Honhart apparently left Denmark sometime after August 1, 1978, the date he states he gave up his living quarters. Apparently he was assigned Government quarters upon his transfer from Copenhagen to his new permanent station at Fleet Numerical Weather Central, Monterey, California, where his wife and two sons joined him.

Commander Honhart filed a claim for the transportation of his dependents from Copenhagen to Monterey and for a dislocation allowance (DLA). Both items were disallowed by the Naval Regional Finance Center in a letter dated October 2, 1978. In addition to the transportation and DLA claims, Commander Honhart filed a claim for the recovery of extraordinary expenses incurred in obtaining housing for himself and his dependents in Copenhagen. These expenses exceeded the amounts which he was otherwise authorized and paid in the form of BAQ and overseas station housing allowances.

Dislocation Allowance

Except for travel and transportation incident to an ordered evacuation authorized under 37 U.S.C. 405a (1976), a DLA authorized

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pursuant to 37 U.S.C. 407 (1976) is payable to a member with dependents only when his dependents make an authorized move in connection with his change of permanent station (PCS). Commander Honhart's dependents traveled nearly 11 months prior to his PCS at personal expense and without official authorization. Paragraph M9004-2, item 1, Volume 1, Joint Travel Regulations (1 JTR) provides that a DLA is not payable to a member with dependents in connection with PCS travel performed by dependents at personal expense prior to issuance of travel orders or prior to receipt by the member of official notice that such orders would be issued. See also B-170734, October 16, 1970.

Because Commander Honhart's dependents had already moved in April 1978, his status at the time of his PCS move from Copenhagen to Monterey for DLA purposes was that of a member without dependents. See B-188849, September 1, 1977, and B-178347, July 9, 1973. However, since he was assigned to Government quarters at his new duty station, he was not entitled to a DLA as a member without dependents upon his PCS from Copenhagen to Monterey. 37 U.S.C. 407(a)(3).

Accordingly, Commander Honhart is not entitled to a DLA.

Dependents' Travel Expenses

Under the pertinent law, 37 U.S.C. 406 (1976), a member of a uniformed service who is ordered to make a PCS is entitled to the transportation of his dependents. However, since Commander Honhart's dependents traveled at personal expense long prior to issuance of his PCS orders, their travel was not incident to his PCS and he may not be reimbursed on that basis. See 1 JTR, paragraph M7000, item 9, and B-178347, July 9, 1973.

In addition subsection (h) of 37 U.S.C. 406 provides that in the case of a member who is serving at a station outside the United States or in Hawaii or in Alaska, if the Secretary concerned determines it to be in the best interests of the member or his dependents and the United States, he may, when orders directing a change of permanent station for the member concerned have not been issued, authorize the movement of the member's dependents, baggage and household effects at that station to an appropriate location in the United States and prescribe transportation in kind, reimbursement, or a monetary allowance in place thereof.

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Regulations implementing 37 U.S.C. 406(h) are contained in chapter 7, part C of 1 JTR. Paragraph M7103 thereof (change 301, March 1, 1978), provides in pertinent part that a member who is permanently stationed outside the United States may request, and the Secretary of the service concerned, or his designee, may authorize transportation of dependents to a designated place in the United States, notwithstanding the fact that the member's permanent station remains unchanged. However, such advance transportation is authorized only under certain specified unusual or emergency circumstances. Also, the person authorizing the transportation is to determine the designated place to which transportation of dependents is authorized and insure that a reasonable relationship exists between the conditions and circumstances in each case and the destination to which transportation is authorized.

Additionally, paragraph M7103-1 of 1 JTR provides as follows:

"* * * When dependents have performed travel without orders to an appropriate destination under circumstances which would have permitted their travel to have been authorized under the provisions of this paragraph, no reimbursement for such travel is authorized even though orders are subsequently issued * * *."

Since reimbursement is not authorized for dependents' early return travel to the United States where such travel is performed without orders, even where travel could have been authorized under paragraph M7103 and orders are subsequently issued, clearly, reimbursement for Commander Honhart's dependents' travel without orders to the United States, must also be denied. B-182778, October 30, 1975, and B-170734, October 16, 1970.

Extra Housing Expenses

Members of the uniformed services are entitled to a BAQ pursuant to 37 U.S.C. 403 (1976) based upon their grade and dependency status when they are not living in Government quarters. Also, for those members serving on duty assignments outside the United States or in Hawaii or Alaska additional amounts are authorized by 37 U.S.C. 405 (1976) as station housing and

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cost-of-living allowances for the purpose of defraying the average excess costs experienced by members on permanent duty in foreign areas. While those station and cost-of-living allowances, being based on average costs, may not meet all the costs experienced by every member, they are set based on the costs in particular areas and are changed from time to time to meet changing conditions in each foreign area.

In any event, the amounts that may be paid for BAQ as well as the overseas station allowances are set by statute and regulation. There is no authority to pay a member sums in excess of these amounts.

In the present case Commander Honhart is claiming amounts he spent for a security deposit, broker's fees, and legal fees incident to his rental of an apartment in Denmark. He received all of the allowances to which he was entitled for BAQ and overseas station allowances, and there is no authority to pay him additional amounts. Therefore, his claim may not be allowed.

Conclusion

Accordingly, the action taken by our Claims Division denying the claim for DLA, reimbursement of dependents' transportation costs and claim for extraordinary housing expense is sustained.

Harry R. Van Cleave
For the Comptroller General
of the United States